

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)	Chapter 11
)	
EASTERN LIVESTOCK CO., LLC, et al.,)	Case No. 10-93904-BHL-11
)	
Debtors.)	

**TRUSTEE'S COMBINED SUPPLEMENTAL REPLY
REGARDING STATUTORY TRUST AND
CLEARING AGENCY ISSUES IN THE CONTESTED MATTERS**

Several parties filed objections to the Trustee's Purchase Money Claims Report, which objections initiated contested matters. These objectors claim a superior interest in sales proceeds which are currently held in escrow by the Trustee.

Thereafter, the Trustee moved for partial summary judgment (the "Motion") on constructive trust, statutory trust, and clearing agency issues in the "Texas Interpleader" (*Friona Industries, L.P., et al. v. Eastern Livestock Co., LLC et al.*, AP No. 11-59093).¹ Parties filed responses to the Trustee's Motion in the Texas Interpleader. At that time, however, no parties filed any particular response to the Trustee's Motion in the contested matters with the exception of Superior Livestock, who simply filed its Texas Interpleader brief in the main bankruptcy case. In the Texas Interpleader, the Court ruled in the Trustee's favor on constructive trust, but reserved judgment on statutory trust and clearing agency issues to permit the objecting parties additional time to conduct discovery. The deadline for those parties' supplemental filings was August 15, 2012.

¹ Texas Interpleader at Doc. No. 248.

Two supplemental responses were then filed in the Texas Interpleaders: a Supplemental Response filed on behalf of CPC Livestock, LLC ("CPC")² and one combined Supplemental Memorandum filed on behalf of the Bluegrass Parties,³ East Tennessee Livestock Center, Inc., Moseley Cattle Auction, LLC, Piedmont Livestock Company, Inc., Southeast Livestock Exchange, LLC and Alton Darnell.⁴ Contemporaneously with those filings, Piedmont Livestock Company, Inc. ("Piedmont")⁵ also filed a notice of submission in the main bankruptcy case, which incorporated by reference its brief in the Texas Interpleader "to the extent necessary." [Doc No. 1342.] Piedmont claimed that the legal and factual issues in that supplemental brief were "equally applicable" to the contested matter regarding the Trustee's Purchase Money Claim Report. Piedmont did not file or otherwise provide the Court with any documents related to any transaction at issue in the contested matter.

CPC similarly filed a notice incorporating its interpleader brief by reference into a supposed contested matter involving the Trustee's Purchase Money Claims Report. [Doc. No. 1350.] CPC Livestock, however, is not presently involved in a contested matter with the Trustee. Accordingly, its submission should be disregarded.

As to the contested matter with Piedmont, the Trustee hereby incorporates by reference his Supplemental Reply filed concurrently in the Texas Interpleader. For the reasons set forth in more detail therein, the Trustee requests a ruling that Piedmont is not entitled to

² Texas Interpleader at Doc. No. 464.

³ The "Bluegrass Parties" include Bluegrass Stockyards, LLC, Bluegrass Stockyards of Campbellsville, LLC, Bluegrass Stockyards East, LLC, Bluegrass-Maysville Stockyards, LLC, Bluegrass Stockyards of Richmond, LLC, and Bluegrass South Livestock Market, LLC.

⁴ Texas Interpleader at Doc. No. 463.

⁵ Two Bluegrass Parties joined Piedmont in this submission in the main case. The Trustee recently reached a settlement with the Bluegrass Parties, and therefore, subject to Court approval of the settlement, the Trustee reserves the right to respond specifically regarding the Bluegrass cattle if that settlement is not approved.

imposition of a statutory trust over the funds at issue in the contested matter because there is no evidence that ELC sold those cattle for Piedmont on a commission basis or as a clearing agent.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2012, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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